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Report of the Independent Expert on the situation of human rights in Mali

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Independent Expert on the situation of human rights in Mali, Suliman Baldo, which covers the period from 1 May to 29 December 2015. The report is based on the information made available to the Independent Expert during his fifth visit to Mali, from 10 to 19 October 2015, by the Government of Mali, the United Nations Multidimensional Integrated Stabilization Mission in Mali and other sources, including civil society organizations.

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I. Introduction

1. This report is submitted in accordance with Human Rights Council resolution 28/31, adopted on 27 March 2015, in which the Council renewed the mandate of the Independent Expert on the situation of human rights in Mali for one year with a view to assisting the Government of Mali in its efforts to promote and protect human rights and requested him to submit a report to the Council at its thirty-first session.

2. In this report, which covers the period from 1 May to 29 December 2015, the Independent Expert on the situation of human rights in Mali, Suliman Baldo, gives an account of his fifth visit to Mali, from 10 to 19 October 2015. The report is based on information collected from government authorities, United Nations bodies operating in the country, national and international organizations dealing with humanitarian issues and human rights, as well as on the testimonies of associations and families of victims of serious violations of human rights and international humanitarian law.

3. The Independent Expert wishes to thank the Government of Mali for facilitating his stay in the country and granting him access to all the national and local officials that he asked to meet. During his fifth visit, as with the previous visits, the Independent Expert met with high-ranking officials, including the President of the Republic, the Minister of Justice and Human Rights, Keeper of the Seals, and the Minister of Defence and Veterans' Affairs.

4. The Independent Expert met the Secretary-General of the Truth, Justice and Reconciliation Commission and the Chairperson of the National Human Rights Commission. He visited Bamako Prison.

5. The Independent Expert held talks with representatives of civil society, associations of victims in northern Mali and a youth association, representatives of the Platform and the Coordination of movements of armed groups, the diplomatic corps and United Nations bodies.

6. The Independent Expert wishes to thank Mongi Hamdi, Special Representative of the Secretary-General for Mali and Head of the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), Koen Davidse, the Deputy Special Representative of the Secretary-General for political affairs, and the staff of the Human Rights Division of MINUSMA. The technical and logistical support from the United Nations system in Mali was essential for facilitating and ensuring the success of the Independent Expert's fifth visit.

II. General situation in the country

A. The political situation

7. Since the Independent Expert's fourth visit, in March 2015, key political developments suggest that it is likely that the Agreement on Peace and Reconciliation in Mali will be effectively implemented and that the human rights situation in the country will improve.

8. On 20 June 2015, the Coordination des mouvements de l'Azawad (CMA) signed in Bamako the Agreement on Peace and Reconciliation, which had been approved on 15 May by pro-Government groups and the international mediation. On 5 June in Algiers, CMA had undertaken to ratify the Agreement after signing two documents with the Government: one relating to guarantees for enforcing provisions concerning the inclusion, as a matter of priority, of most of the combatants of political-military

movements, notably CMA, within the security forces in the north, and the other concerning security arrangements for the withdrawal of armed groups of the Platform from the town of Ménaka (in the north-east).

9. On 21 September 2015, the Council of Ministers decided to postpone the local elections scheduled for 25 October 2015. Political parties, civil society organizations, CMA and the Platform had requested that the polls should be delayed until the return of refugees and internally displaced persons so as to guarantee an inclusive electoral process. The Government also highlighted insecurity in the northern regions and the need to review electoral boundaries.

10. On 14 October 2015, the armed groups signed a pact of honour agreeing to a ceasefire and peace. As part of a direct and constructive dialogue between CMA and the Platform, a series of meetings took place in Anéfis from 4 to 14 October 2015. The talks between CMA (ex-Tuareg-led rebellion) and the Platform (a coalition of pro-Government groups) lasted nearly three weeks. This was a key step because, without a credible and lasting ceasefire, the Agreement cannot lead to a durable peace or its effective implementation.

11. On 22 October 2015, at an international conference organized in Paris by the Organization for Economic Co-operation and Development for the economic recovery and development of Mali, donors reaffirmed their commitments in favour of Mali. The conference brought together the Malian authorities, led by the President, Ibrahim Boubacar Keïta, representatives of the signatories to the Agreement on Peace and Reconciliation and 64 countries and international partner organizations. At the conference, the President highlighted the importance of economic recovery and balanced development across all the northern regions and State reform through an enhanced decentralization process.

12. This fresh momentum in the peace process was accompanied by progress in the implementation of the Agreement; in particular, the Monitoring Committee has met on several occasions. In order for the Committee to be able to meet, it was necessary for MINUSMA and members of the international community to engage in mediation with armed groups following ceasefire violations and the withdrawal from Anéfis in September 2015.

B. The security situation

13. The security situation in the north, centre and south of the country has deteriorated considerably with the resurgence of terrorist and asymmetric attacks in the regions of Mopti, Ségou and Gao. These attacks specifically targeted members of the Malian armed forces and MINUSMA forces. In response, a large number of counter-terrorist operations have been carried out in Mali since the last visit by the Independent Expert. Over the last year, MINUSMA has been one of the most deadly peacekeeping operations, with a total of 67 peacekeepers killed and more than 200 injured.

14. Terrorist and extremist groups increasingly target civilians, in particular foreigners. During my fourth visit to the country, five persons were killed in an attack on the La Terrasse restaurant in Bamako on 7 March 2015. On 7 August, a terrorist attack killed 13 people in a hotel in Sévaré. On 20 November, a shooting followed by a hostage situation at the Radisson Hotel was the most deadly incident, with at least 21 people killed, including 14 civilians.

15. Between March and September 2015, the Human Rights Division of MINUSMA reported 79 asymmetric attacks against civilian or military targets. Twenty-five of these attacks targeted United Nations peacekeepers or members of the

Serval/Barkhane Operation. The modus operandi of the attacks typically involved the use of rockets, anti-personnel mines, suicide attacks and explosive devices.

16. Since March 2015, the number of asymmetric attacks each month has ranged from 8 to 14, with two peaks of 14 attacks in May and September. The May attacks could be linked to a show of force by the armed groups prior to the signing of the Agreement on Peace and Reconciliation.

17. During the reporting period, the number of civilians and military personnel who died in such attacks was 68 (39 military personnel and 29 civilians). The number of military victims reached a peak in August (16 deaths) following various terrorist attacks against government targets. For example, the 7 August Sévaré attack claimed the lives of four military personnel. The number of civilian victims peaked in April (11 persons killed and 54 wounded), a month that was notable for an incident involving a lorry carrying civilians that hit a mine on 30 April (28 persons injured) and an attack on MINUSMA in the vicinity of the Ansongo camp on 17 April (2 civilians killed and some 20 wounded).

18. Since early 2015, the security situation has deteriorated steadily in the Mopti and Ségou regions. Attacks that struck the regions of Tenenkou and Youwarou in the first three months of 2015 continued and spread to other areas.

19. The radicalization of certain members of the Peulh community is one of the main threats in these two regions. The Independent Expert was informed that, since the beginning of 2015, most of the attacks recorded in this area are attributed by the authorities to members of this community, although there is no concrete evidence to support this. Acts by a few individuals are thus attributed to the Peulh community as a whole.

20. Since the last visit to Mali by the Independent Expert, there have been numerous incidents in the Gao region that have adversely affected the protection of human rights and individual freedoms. The security situation in the Gao region remains a matter of concern. Since March 2015, the number of improvised explosive device explosions has increased along several of the region's roads (Ansongo-Indelimane and Gao-Gossi).

21. The Human Rights Division recorded 105 cases of banditry between March and September 2015 (62 cases in Timbuktu, 26 in Gao, 15 in Mopti and 2 in Kidal) that have had an impact on the security situation and human rights. Traders who transport goods from Bamako to the northern regions are often targeted by bandits, in particular in the Timbuktu region. During the reporting period, most of the attacks took place along two routes: the road linking Timbuktu and Goundam, situated 95 km to the south-west of Timbuktu and the road linking Timbuktu and Ber, 60 km to the east of Timbuktu. In Ménaka, repeated hold-ups on market days are a source of fear and panic in people's daily lives. Bandits have taken advantage of the delays in re-establishing civilian authorities and State security forces in the north of the country.

22. The Independent Expert heard a great deal about the threat posed by illegal trafficking, in particular drug trafficking. Most of the clashes between armed groups in the north of the country are aimed at establishing control over illegal trafficking routes and, especially in the rainy season, control of all-weather roads. Senior Malian authorities have expressed their concern in this connection. Drug trafficking has a detrimental impact on national security, regional and international stability, international peace and State sovereignty. It undermines respect for human rights and the rule of law, democratic institutions and sustainable development.

C. The ongoing challenge of the fight against impunity

23. The Independent Expert notes that most cases of human rights violations linked to the crisis in the north of the country and the coup d'état in Bamako that have given rise to complaints before the competent judicial authorities since 2012 have not yet led to judicial investigations. Only the "red beret" case has seen some modest progress, even though it is still only at the indictment stage.

24. The Independent Expert wishes to highlight a number of emblematic cases, including the mutiny of 30 September 2013 and the incident at Diabali, in which 16 pilgrims were allegedly arrested and executed in a military camp, but in which no arrests have yet been made. He also wishes to highlight the Djebock case (in the Gao region), in which three Tuareg men were allegedly summarily executed and buried in a communal grave by members of the Malian armed forces in February 2014, but in which no judicial investigation has yet been instituted. In April 2014, a 58-year-old shepherd was reportedly summarily executed by a member of the Malian armed forces near Gao military camp No. 1, while grazing his sheep. No investigation has officially been opened by the competent authorities.

25. Responsibility for violations attributed to military personnel is a matter of particular concern. The Military Code does not comply with international human rights guarantees in a number of key areas. In particular, the independence and impartiality of military tribunals, which perform judicial functions, is not respected, and the authorization of the Minister of Defence is required to open criminal proceedings against a member of the army. The lack of prosecutions in a number of cases, including those involving alleged sexual violence against minors, is worrying. In this regard, MINUSMA, together with the judicial authorities, continues to monitor cases of human rights violations committed between 2013 and 2015 by members of the Malian armed forces in the Mopti and Gao regions. The Independent Expert recalls that military justice is a priority area for security sector reform within the framework of the peace process.

26. The Human Rights Division of MINUSMA has monitored four trials linked to the ongoing conflict in Bamako. One of the accused (of Arab origin and arrested in 2013 in Ber in the Timbuktu region) was a minor; he was released on 15 July 2014 as part of confidence-building measures under the Ouagadougou Agreement. It is important to note that this juvenile defendant had been sentenced to death. Nevertheless, Mali has ratified several conventions[1] that prohibit the death penalty and has, since 2002, observed a moratorium on its use; no executions have been carried out since 1984.

27. As part of the peace process, the Government of Mali has released a number of political detainees, including 3 in April, 7 in June, 23 in July and 31 in September. The Independent Expert welcomes the establishment in October 2015 of an ad hoc commission with a view to identifying and drawing up a list of detainees eligible for confidence-building measures and to re-examining the list of individuals proposed by the movements and identified for release. The commission was to make proposals taking account of the list of reservations formulated by MINUSMA, the Embassy of France, the General Directorate of State Security and the Ministry of Justice and Human Rights. On completion of its work, the commission reported that, out of a total

[1] The Convention on the Rights of the Child (art. 37); the International Covenant on Civil and Political Rights (arts. 5 and 6); the Geneva Convention relative to the Protection of Civilian Persons in Time of War (art. 68) and the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflicts (arts. 4 and 6).

of 195 detainees proposed for release, 43 had been the subject of reservations and 152 were eligible for release.

28. The Independent Expert wishes to emphasize that any measure that would amount to an amnesty would be contrary to international law and in violation of the commitment made by the parties to the Agreement on Peace and Reconciliation. He was deeply concerned by the release in July 2015 of detainees suspected of or formally charged with involvement in serious crimes, including war crimes, terrorist attacks and gross human rights violations. Such releases have a negative impact on the fight against impunity. The Independent Expert wishes to reaffirm the importance of the fight against impunity and the need to investigate gross violations of human rights in order to ensure accountability and prosecute those responsible for such acts.

29. In this regard, the Independent Expert is concerned about the fact that no judicial investigation has been opened in connection with the case of 14 victims who have filed for damages against Houka Houka for several human rights violations, including amputation, rape and cruel, inhuman and/or degrading treatment. He notes that the alleged perpetrator of these acts was released on 15 August 2014 as part of political negotiations, without the victims being informed.

30. The justice system is not working as it should. Cases of human rights violations that are reported and brought before the courts are either not taken up or experience delays in the opening of judicial investigations. For instance, no progress has been made in the case of 125 victims, including 40 survivors of sexual violence in Timbuktu, on whose behalf a victims' association filed complaints with the Timbuktu prosecutor's office in November 2014. Similarly, no criminal proceedings have been instituted by the judicial authorities in relation to emblematic cases of human rights violations that have not been the subject of complaints. A clear prosecutorial strategy should be developed in order to establish priorities and process cases. The competent authorities should allow a single judicial body to be given jurisdiction for human rights violations committed in the context of the crisis in the north of the country.

31. The effective capacity of the regional courts is seriously hampered by a lack of material and human resources. For example, in the Gao region, in the court of first instance, there is only a public prosecutor, the president of the court and an investigating judge actually present. Similarly, in the Timbuktu court, there is only the president, a judge and a prosecutor. In Mopti, in the districts of Tenenkou and Youwarou, no justice system officials have been in place since January 2015 because of the prevailing insecurity in these two areas. Although, under an order issued by the Mopti Court of Appeal, officials are able to operate from the town, this is unsatisfactory, particularly where criminal matters are concerned. Only the gendarmerie is present on the ground; officers draft reports of offences and then forward them to the judges concerned at irregular intervals (one individual whom the Division met had spent 40 days at the Tenenkou gendarmerie before being transferred to Mopti).

32. During his meeting with the Minister of Justice and Human Rights, the Independent Expert was informed that efforts were under way to tackle this problem and that mobile counselling centres should be operational shortly. The Independent Expert recalled that the criminal law in force in Mali established important, fundamental safeguards, but that the institutional framework did not provide sufficient guarantees for the implementation of those safeguards. The State has the obligation to provide the necessary resources.

33. On 4 August 2015, the President of the Truth, Justice and Reconciliation Commission was appointed by the Council of Ministers, while the remaining 14 commissioners were appointed by the Government on 15 October. Many of the

persons who spoke to the Independent Expert were of the view that the appointment of the President of the Commission had been made without any consultation with the armed groups, who are nonetheless parties to the Agreement on Peace and Reconciliation, or civil society. The procedure for appointing commissioners remains unclear, even though letters were sent to civil society, the armed groups and religious representatives inviting them to submit the names of candidates. Given that there was no national consultation before the Commission was established, the Independent Expert considers that a communication strategy should be put in place in cooperation with the public in order to initiate a genuine awareness-raising policy.

34. The Independent Expert welcomes the holding of the international conference on the role and complementarity of the various mechanisms involved in the transitional justice process in Mali that took place from 29 June to 1 July 2015 under the auspices of the Ministry of Justice and Human Rights and the Human Rights Division of MINUSMA. Several recommendations were made in the course of the conference, in particular regarding the drafting of a national strategy document on transitional justice.

35. In his previous report (A/HRC/28/83), the Independent Expert welcomed a number of initiatives, including the process of rebuilding the National Human Rights Commission so as to bring it into line with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). He encourages the Government of Mali to move forward with this project because an independent, operational institution could form the basis of an effective national human rights protection system.

36. The Independent Expert welcomes the appearance of a former head of the Islamic police of the Ansar Eddine terrorist group, Ahmad Al Faqi Al Mahdi, before the International Criminal Court. He notes that this person is the first jihadi to be tried as part of an investigation by an international court. This individual is also the first suspect prosecuted by the International Criminal Court for the destruction of religious buildings and historic monuments; the Independent Expert would like to see him prosecuted for the crimes that he allegedly committed against civilians. As to an international commission of inquiry, no action has been taken by the United Nations since the Government of Mali submitted an official request in that connection to the Secretary-General of the United Nations on 10 July 2014.

37. The Independent Expert welcomes the initiatives taken by civil society to fight impunity. The Independent Expert met members of Réseau Média et droits de l'homme (Media and Human Rights Network), a coalition of journalists formed a few months ago with a view to raising public awareness of human rights. Another organization, the Association des jeunes avocats du Mali (Association of Young Lawyers in Mali), has sought support from MINUSMA to enable its members to provide legal assistance to victims in the northern part of the country, where there are no lawyers.

III. The human rights situation

A. Civil and political rights

38. In the past seven months, the Human Rights Division has carried out special investigative missions in the four regions affected by the situations mentioned above (Timbuktu, from 13 to 17 April and from 23 to 30 April; Tin Hama, on 21 and 22 May; Fakola from 17 to 21 August; and Anéfis, on 27 August and 10 and 11 September). The purpose of these missions was to verify allegations of human rights violations by

the Malian security forces and abuses committed by armed groups following terrorist attacks, fighting among armed groups and ceasefire violations.

39. A mission was undertaken on 21 and 22 May in Tin Hama, in the Gao region, in order to investigate human rights violations, ceasefire violations and abuses committed following fighting between elements of CMA and elements of the Platform for control of Ménaka and the surrounding area. The mission confirmed that the following violations had been committed by the groups concerned: violations of the right to life (two civilians killed by CMA), the summary execution of 6 civilians by Groupe d'autodéfense Touaregs Imghad et alliés (GATIA), the displacement of 38 families (160 individuals) following clashes and the abduction of 3 members of GATIA by CMA, as well as looting and the destruction of property.

1. Human rights violations committed by the Malian armed forces

40. From March to September 2015, the Human Rights Division of MINUSMA recorded a significant increase in arrests: 308 in seven months, nearly twice the number of conflict-related arrests made by the Malian armed and defence forces in 2014 (182 arrests). The individuals concerned were arrested in the context of multiple attacks on villages by armed or terrorist groups in the northern regions and also in the south of the country (Sikasso and Ségou). The Human Rights Division has already spoken to 149 of these detainees. Forty-three reported that they had been subjected to acts of ill-treatment and torture by the Malian security forces (Malian armed forces and State security agents). This rise in arrests took place against the background of an increase in terrorist attacks and counter-terrorism activities undertaken by the Malian security forces across the country.

41. The Human Rights Division of MINUSMA noted with concern that, within the framework of counter-terrorism operations conducted by the Malian armed forces, some soldiers had continued to commit acts of torture and ill-treatment during mass arrests in the Ségou and Sikasso regions. Members of particular communities (Peulhs and Arabs) were targeted on suspicion of collaborating with armed terrorist groups. The Human Rights Division was obliged, on several occasions, to cancel investigative missions to Nampala and Niono, in Niono *cercle*, because of the security situation in the Ségou region, where mass arrests and ill-treatment of detainees had been reported. The Independent Expert is concerned that the mass arrests and violations resulting from these operations may undermine the fragile confidence of the affected communities in the authority of the State.

42. The Independent Expert was informed that, in just one month (April/May 2015), 47 members of the Peulh community were arrested and detained following several armed attacks, notably against the Malian army in Boulkessi. The Director of the Human Rights Division of MINUSMA received a delegation of village leaders and other prominent figures of the Peulh community from across the Mopti region (700 km from Bamako). These leaders expressed serious concerns about the arrest and continued detention of members of the Peulh community suspected of being affiliated to the Movement for Unity and Jihad in West Africa (MUJAO).

43. On 13 October, in Bamako, the Human Rights Division of MINUSMA investigated the conditions of detention of eight persons arrested during counter-terrorism operations by the Malian armed forces in August and September 2015 in Nara (370 km to the north of Bamako), in the Koulikoro region. Human rights experts interviewed five of the eight detainees. One stated that he had received no food since being detained; he had to provide for himself. Two other persons also said that they were often denied food and that they were held in very small cells with no hygienic facilities. The detention of these persons did not meet the requirements of national laws, given they had been detained since September 2015 without being brought

before a judge and had received no document attesting that they had been formally imprisoned. Under Malian anti-terrorist legislation, police custody of a suspected terrorist can be extended by a competent judge for three periods of 48 hours (article 7 of Act No. 2013-016 of 21 May 2013 amending Act No. 01-080 of 20 August 2001 on the Code of Criminal Procedure).

44. On 22 October, human rights experts from Mopti interviewed a member of the Peulh community who had been arrested on 25 September by the national guard in the village of Guidio (Youwarou *cercle*, in the region of Mopti) on suspicion of being a terrorist. The detainee stated that he had been arrested on the basis of his physical appearance (referring to his long beard and his hair); he had been detained for approximately one month, without being notified of any formal charges.

45. On 24 July, a team of human rights experts interviewed 17 persons detained in Bamako, who had been arrested by the Malian armed forces in Fakola and Misséni, in the region of Sikasso, on suspicion of collaborating with jihadis. Two nationals of Côte d'Ivoire, including a 13-year-old boy, and a Mauritanian were among the 17 detainees. Seven of the 17 detainees stated that they had been beaten at the time of their arrest and during their detention. The human rights experts saw signs of ill-treatment on some of the detainees. One of the detainees said that gendarmes had threatened to cut his throat if he did not confess to being an informer for the jihadis. It should be noted that the 17 detainees have all denied being affiliated to or having collaborated with an armed group and have identified themselves as artisanal miners, traders, herders, farmers and, in one case, a religious teacher. The Independent Expert was informed that, since the end of June 2015, several groups have reported that they have been subjected to acts of torture and ill-treatment by the Malian defence and security forces during arrests carried out in connection with the fight against terrorism.

2. Human rights violations committed by armed groups

46. From March to September 2015, the Human Rights Division of MINUSMA recorded 120 cases of persons deprived of their liberty by armed groups (Mouvement national pour la libération de l'Azawad and Mouvement arabe de l'Azawad (Coordination and the Platform)), including 62 alleged combatants captured by one of the groups during clashes. Thirty-seven detainees are civilians arrested for common offences or robberies, a further 18 were detained on communitarian grounds (on suspicion of working for another group or carrying out reprisals) and 3 for alleged collaboration with the Barkhane force. Of these 120 detainees, 5 reported that they had suffered ill-treatment and torture at the time of their arrest. Forty-five other detainees have been released, most often unilaterally by the armed group holding them or after payment of compensation for the sums stolen.

47. The abductions[2] and enforced disappearances committed by armed groups in the regions of Gao, Timbuktu and Kidal that had been observed during the previous reporting period continued during the period under review. At least 18 persons were reported to have been abducted, including 9 missing CMA combatants who had allegedly been transferred to Gao; the Human Rights Division of MINUSMA was, however, unable to locate them.

48. From March to September 2015, CMA detained 22 members of the Malian security forces, including a police officer and a gendarme. On 2 September, the Human Rights Division of MINUSMA spoke to these two officials, who are being held by CMA in Ber, in the region of Timbuktu. However, the remaining 20 members

[2] Detention constitutes an abduction and an enforced disappearance when carried out by an armed group that denies victims access of any kind and does not reveal their place of detention.

of the Malian armed forces are being held in an unknown location. Gaining access to these detainees is a major challenge for the Division.

49. Since March 2015, there has been an increase in improvised explosive device explosions along several roads in the region (Ansongo-Indelimane, Gao-Gossi, etc.). Both MINUSMA (in particular logistics convoys) and the Malian armed forces have been targeted in these attacks. The Human Rights Division has documented dozens of cases of violation of physical integrity (serious or minor injuries due to the explosion of an improvised explosive device) and violations of the right to life (deaths from injuries caused by an improvised explosive device). Such attacks also constitute an obstacle to freedom of movement and trade, including in goods, and to access to basic social services; they thus constitute a violation of economic and social rights.

50. In the region of Timbuktu, the human rights situation has gradually deteriorated since March 2015 because of an increase in insecurity due to the actions of armed groups and terrorist groups. The Human Rights Division has recorded several cases of summary executions, unlawful arrests and detentions, ill-treatment and violations of freedoms and physical integrity. The situation has also been characterized by the mass displacement of civilian populations and the looting of their property. The Independent Expert is further concerned about targeted attacks against State institutions and officials. In addition, the region has witnessed several attacks against MINUSMA and humanitarian workers, involving harm to life and physical integrity.

51. The Independent Expert was informed that CMA in Timbuktu imposed illegal taxes on traders and vehicles on market days in exchange for ensuring public safety.

B. Intercommunal and intracommunal conflicts

52. The Independent Expert remains concerned about the increasing number of intercommunal and intracommunal conflicts and human rights violations, including executions, abductions and arrests based on the ethnic or tribal affiliation of the victims. The root cause of the conflicts is livestock theft committed or allegedly committed by the other tribe.

53. The escalating tensions between the Tuareg Daoussak communities, considered pro-CMA, and the Imghad community, predominantly pro-GATIA in the Gao region, is a definite threat to the ongoing peace process. Moreover, the areas affected by the current tensions (Talataye and Indelimane) are hard to reach for humanitarian actors and even for MINUSMA; this exacerbates the impact of the tensions on the civil populations living there.

54. In Timbuktu, a fall in the number of intercommunal and intracommunal conflicts was observed during the reporting period. Only one intracommunal conflict was noted: it broke out between the Songhai in Douékiré commune (Goundam *cercle*) and those in Kondi commune (Diré *cercle*).

55. Furthermore, the Mopti region, which is a place of transit or residence for a large number of ethnic groups, has witnessed many intercommunal and intracommunal conflicts, without the State being able to provide an adequate security or legal response.

56. In early July 2015, an intracommunal conflict in the village of Omo (a rural commune in Bondo) resulted in the death of one person and caused the displacement of some 530 people in a village near the border with Burkina Faso. Forty-five persons were arrested, including 30 women. The situation in the areas of Bankass (Mopti region) and Tominian (Ségou region) is of particular concern in this regard. The use of vigilante groups by one side is growing, while the other side is increasingly accused of

turning to supporters of Amadou Koufa, without the Malian security forces, which are too few in number, being able to exert any influence whatsoever on the course of events.

57. In the Gao region, a clash occurred between members of the Dawsahak community and the Peulh communities on 21 October over a long-standing land dispute in Tassalatane (70 km to the south of Ménaka), in the Gao region, resulting in the death of three members of the Dawsahak community. On 30 October, 4 members of the Peulh community were killed by members of the Dawsahak community in Inékar (90 km to the east of Ménaka); according to reports, the victims included a woman and a child. The local authorities and armed groups in Ber confirmed that intercommunal clashes — triggered by the use of scarce water resources — had taken place on 1 October between Arabs and Tuaregs. Land disputes and livestock theft among members of the two communities are the main causes of these conflicts.

58. Traditional conflicts between shepherds and farmers are becoming increasingly severe, in particular because of the links that may exist between communities and groups that resort to armed violence.

C. The situation of women

59. Women have been underrepresented at the decision-making level since the start of the Algiers mediation process, which began in July 2014, and women's representation in the implementation phase is still very low. The Ministry for the Advancement of Women, Children and the Family is not represented in the national committee of coordination for the implementation of the Agreement on Peace and Reconciliation.

60. Nonetheless, the Agreement includes, in chapter 14, provisions on the protection of women and the fight against impunity and refers in particular to the establishment of an international commission of inquiry tasked with investigating sex crimes and to the prohibition of amnesty for serious conflict-related human rights violations, including violence against women, girls and children. These provisions in the Agreement on the protection of women and the fight against impunity will play an important role in the integration of prevention into planned reforms in the areas of security, defence and justice.

61. The cabinet reshuffle carried out on 25 September 2015 by the President increased the representation of women within the Government from 10.3 per cent to 16.1 per cent. Women occupy 5 of the 31 ministerial posts. This could indicate a positive shift in political will, towards acceptance of the key role of women.

62. The Independent Expert is very concerned about the lack of progress in investigations and legal proceedings relating to past crimes and about the growing climate of impunity.

63. The Independent Expert, who has always paid special attention to violence against women, received information from two survivors of sexual violence. On 29 September 2015, in the region of Timbuktu, the women in question were raped at gunpoint by members of the Coalition du peuple pour l'Azawad (CPA) while they were travelling on public transport in Acharane (35 km to the east of Timbuktu), in Alafia commune. They were referred to Médecins sans frontières for medical and psychosocial support.

64. The Independent Expert was also informed that the number of incidents of sexual violence had increased along the Timbuktu-Goundam road after CPA took Acharane on 24 July 2015. In addition, it is highly likely that the actual number of

cases of sexual violence is higher than the number reported because some victims choose not to make an official report, for fear of social stigmatization in their communities. In Imboguitane (5 km to the north of Anéfis), a woman reported that she had been raped three times by three armed men between 25 and 27 August 2015. The Independent Expert also received reports indicating that, in the same village, four attempted rapes were committed by members of the Platform one week after Anéfis was taken. According to those reports, none of the victims had sought treatment in a medical facility.

65. The Independent Expert welcomes the trust fund programme for the protection of victims of sexual violence and their access to justice, set up by the Human Rights Division in June 2015, to which the Office of the High Commissioner for Human Rights is making a contribution of US$ 30,000. Fifteen women survivors will benefit from this programme.

66. The Independent Expert also welcomes the quick impact project launched on 24 October by the non-governmental organization Association femmes battues (Association of Battered Women). The project targets 106 displaced women who are survivors of serious human rights violations committed by armed extremist groups during the occupation of the north of Mali and survivors of sexual violence in the region of Timbuktu.

D. The situation of children

67. The Independent Expert was informed that children have, on several occasions, been victims of violent clashes between armed groups. He was told that, on 29 April 2015 in Léré (230 km to the west of Timbuktu), four civilians, including three children, had been wounded in armed clashes between CMA and the Malian army. On 18 August, in Inkadewen (75 km from Ménaka), in the Gao region, two children aged 6 and 8 were killed and three persons, two men and a child of 3 years, were injured following an improvised explosive device explosion.

68. The recruitment and use of children by armed groups is also a problem, with reports indicating the presence of children — some of them armed — at checkpoints. On 2 October, during a mission to Inbaram, some 8 km from Ménaka, in the Gao region, the Human Rights Division of MINUSMA noted the presence of at least five children, armed and wearing military fatigues, among GATIA elements. The Human Rights Division also interviewed a 16-year-old boy detained by elements of CMA in the premises of the Comité de sécurité mixte de l'Azawad à Kidal (CSMAK). He said that he had been recruited by GATIA and confirmed that he had been detained in May in Tin Fadimata, in the region of Gao, while taking part in the hostilities. On 5 October, the Human Rights Division of MINUSMA observed at least three children among CPA elements. A human rights expert spoke to a 16-year-old boy who said that he had voluntarily joined CPA in July 2015, together with other children (some seven in total). He mentioned that they were mainly involved in preparing food, but that they were also receiving military training.

69. The risk of sexual violence against children by members of armed groups remains high. In June, the Human Rights Division of MINUSMA recorded a case of rape of a 16-year-old girl by a member of the national guard in Mopti.

70. During meetings with members of civil society in Kidal, the Independent Expert was informed of the problems posed by the socioeconomic situation in the north of the country and the lack of access to safe drinking water and sanitation facilities that puts children at risk of life-threatening diseases.

E. The prison situation

71. The Independent Expert was able to visit Bamako Central Prison and speak to persons deprived of their liberty in connection with the conflict in the north of the country and persons arrested during counter-terrorism operations carried out in southern regions of Mali. The detainees interviewed included one person who had allegedly been detained for eight months without being questioned and a minor who reportedly belonged to one of the armed groups.

72. Half of the detainees had seen an investigating judge, but it is clear that the constitutional right of arrested persons to access to a lawyer is not enforced in practice. Access to free legal assistance, which is provided for by law, is not implemented on the ground. The prison population, estimated at 1,900 detainees, is very high compared to the prison's capacity, which is 600. This situation is directly linked to the high number of persons in pretrial detention.

73. The Independent Expert noted that records continue to be kept on detainees, but several registers had to be consulted to determine the situation of a single detainee. As the information is not digitalized, it cannot be easily accessed or used. The Independent Expert also noted that prison security is poor because of inadequate installations and a lack of proper surveillance equipment.

74. The Independent Expert was told that, since his previous visit, the Human Rights Division had regularly monitored State facilities and places of detention run by armed groups across the country, including CMA facilities, such as those in Kidal and Ber. In June, allegations of torture and cruel, inhuman or degrading treatment by members of the Malian armed forces were recorded in the region of Ségou (central Mali). The victims were suspected of association with armed or terrorist groups. According to information provided to the Independent Expert, the victims were arrested by the Malian armed forces on suspicion of collaboration with armed terrorist groups and held in a military barracks, where they were tied up, blindfolded, hung upside down for several hours and beaten during interrogations. After a few days, they were returned to the relevant gendarmerie, and the abuses ceased. Detainees who were interviewed repeatedly reported that commanders of the Malian armed forces were aware of the situation or were responsible for encouraging such treatment.

75. The Independent Expert regrets that, during the reporting period, the Human Rights Division was unable to obtain access to the detention facilities run by the State security services and visit the persons held there. The Division had limited access to CMA places of detention and to the members of the Malian armed forces held there. The Independent Expert recalls that the Human Rights Division must have access to all detention centres operated by all military actors, including those run by the Barkhane force, in order to monitor the rights and welfare of detainees from all sides.

F. Refugees and internally displaced persons

76. During the reporting period, the Independent Expert was informed of several incidents linked to forced displacements. According to information received, a massive displacement of local people took place in five villages in the east of Timbuktu on 11 May. The local authorities estimated that at least 190 families (approximately 1,630 persons, including 860 women) fled after CMA forces took control of the area. Those forces reportedly looted shops, and residents fled fearing further violence. On 18 August, following clashes between GATIA and CMA in and around Anéfis, 112 km to the south of Kidal, several Idnan families in Anéfis fled for fear of reprisals by the Platform.

77. The Independent Expert notes, however, that the National Directorate of Social Development reported that, as at the end of October 2015, the number of displaced persons (14,154 households) and the number of refugees (137,651 individuals) had fallen. Even though certain attacks on the safety of displaced persons have decreased, specific measures are required to ensure that these persons are able to return with dignity and on a sustainable basis. They still face several human rights issues, in particular threats against physical integrity, including gender-based violence, limited access to health care, disruption to the education of displaced children and the lack of identity documents — all issues that could hamper the search for lasting solutions.

78. The Independent Expert stressed the need to ensure that more humanitarian actors are present in the north of the country, where access to humanitarian assistance remains very limited because of the deterioration in the security situation. The Independent Expert recalls the statement made by the Humanitarian Coordinator on 12 November 2015, in which she condemned the increase in violence against humanitarian organizations in Mali. In fact, most of the attacks against personnel and humanitarian facilities have occurred since June. The Independent Expert recalls that attacks against the personnel and facilities of humanitarian organizations are violations of international humanitarian law and subject to penalties.

G. Economic, social and cultural rights

79. The Independent Expert met the country team and was told that approximately 3.1 million persons in Mali are considered to be food insecure; they live for the most part in the north, where forced displacements and limited access to humanitarian assistance have created the conditions for food insecurity. In Kidal, the Independent Expert met representatives of civil society organizations and heard a great deal about the shortage of safe drinking water and poor access to food and education. The Independent Expert received reports indicating that 54,000 people in the north of Mali do not have proper access to drinking water.

80. Recurrent attacks against humanitarian personnel adversely affect the delivery of humanitarian supplies and have a negative impact on civilians. In 2015, the Government, together with international partners such as the World Food Programme, the Food and Agriculture Organization of the United Nations and the International Committee of the Red Cross, provided assistance to 220,000 of the 450,000 people in need of farming and livestock support. Entire communities may therefore be trapped, without access to food.

81. Regarding access to education, on 19 October 2015, MINUSMA human rights experts visited Ménaka secondary school. School administrators raised the issues of the shortage of teachers, who had left because of the lack of security, and the low enrolment rate at the school. At present, there is only one teacher for 223 students. Pending the return of the teachers, volunteers are trying to make up the shortfall. Administrators are also battling to meet the teaching and stationery needs of their pupils. The Independent Expert wishes to stress that this is just one example of the problems faced.

82. While progress has been made with regard to the problem of schools occupied by military actors, inasmuch as some schools have been evacuated as a result of efforts to that end, armed groups still occupy 10 schools in Timbuktu, Gao and Kidal, which they use for military purposes.

83. Girls are, for their part, discriminated against in terms of access to education. Families concerned about the safety of girls, who are more likely to be victims of sexual violence, tend to keep them at home. Furthermore, girls have more

responsibilities at home. Some rural families chose to send their school-age daughters to urban centres, where they are employed as domestic workers, without access to education.

84. The Independent Expert welcomes the fact that the Agreement on Peace and Reconciliation identifies the reopening of schools as a priority for Mali in the post-conflict situation and that the success of the international conference for the economic recovery and development of Mali makes it possible to implement strategies to tackle these issues. The Independent Expert further welcomes the fact that Mali is currently preparing a report for the Committee on Economic, Social and Cultural Rights.

IV. Conclusions and recommendations

A. Conclusions

85. The Independent Expert noted positive developments since his last visit; however, important challenges remain. The Agreement on Peace and Reconciliation was signed in May and June 2015. The conclusion of the pact of honour and the social contract between CMA and the Platform on 16 October seems to have resolved outstanding issues regarding the implementation of the Agreement. Furthermore, the Agreement contains key human rights provisions, and progress has already been made in implementing a transitional justice mechanism.

86. The Malian security and defence forces and members of the United Nations Multidimensional Integrated Stabilization Mission in Mali continue to be targeted by jihadi groups. The Independent Expert is concerned about the attacks, including summary executions of persons suspected of collaborating with MINUSMA or the Barkhane force. Attacks against humanitarian actors, whether jihadi attacks or acts of banditry, continue to worsen. These acts affect the most vulnerable population groups, who are deprived of access to basic social services. All these factors make the security situation fragile.

87. Armed and extremist groups present in the north of Mali continue to be involved in violations of human rights: violations of the right to life, abductions, cruel, inhuman or degrading treatment, unlawful detention, the recruitment and use of children by armed groups, asymmetrical attacks and looting. The Independent Expert wishes to emphasize that the security situation in Mali as it relates to extremist groups is highly complex, with multiple dimensions that go beyond the borders of Mali; the international community and countries in the region should improve cooperation arrangements in order to combat terrorism successfully.

88. The security situation is made worse by intercommunal and intracommunal conflicts. The risk of serious human rights violations among the civilian population is especially worrying. The Independent Expert also wishes to underscore the potential impact of drug trafficking and other illegal trafficking on the State and the human rights situation.

89. The Independent Expert calls on the authorities to build on the momentum for institutional reform, especially with regard to justice and the establishment of mobile counselling centres to expedite judicial proceedings for crimes committed in the centre and north of the country. Combating impunity for violations committed in the past and those that are ongoing is essential; the Independent Expert notes that very little progress has been made in this regard. In order to establish an effective national human rights protection system, it is imperative to

reform the National Human Rights Commission with a view to bringing it into line with international standards.

90. With regard to the Agreement on Peace and Reconciliation, the Independent Expert wishes to highlight the provisions relating to the prohibition of amnesty and the non-applicability of statutory limitations to war crimes, as well as those relating to reform of the justice system and the promotion of economic and social rights. He wishes to reaffirm that, until the fight against impunity for current and past crimes is pursued effectively, it will be difficult to establish a lasting peace in Mali.

B. Recommendations

91. The Independent Expert reiterates the recommendations contained in his previous report and makes the recommendations set out below.

92. The Independent Expert recommends that the Malian authorities should:

(a) Ensure that any measures taken to combat terrorism comply with the obligations of the authorities under international law, including international humanitarian law and international human rights law, in particular the principles of precaution, distinction and proportionality;

(b) Ensure that, in any case in which there is a plausible indication from any apparently reliable source that civilians have been killed or injured in a counter-terrorism operation, the relevant authorities conduct a prompt, independent and impartial fact-finding inquiry, and provide a detailed public explanation;

(c) Combat impunity, in particular with regard to members of the security forces: implement a zero-tolerance policy toward sexual violence and other serious human rights violations and publicly condemn all acts of rape committed by security forces. Conduct investigations of suspects, including officers with command responsibility, prosecute and impose severe penalties on any member of the security forces who has committed or ordered rape or tolerated other human rights violations, and prosecute and punish officers with command responsibility for serious human rights violations;

(d) Denounce publicly and unequivocally all forms of violence against women, including spousal abuse, marital rape and sexual harassment without invoking any custom, tradition or religious consideration to justify or excuse such violence. Investigate and prosecute with due diligence all cases of violence against women in the family or community;

(e) Ensure that the needs of the judiciary and the court system are accorded a high level of priority in the allocation of resources and that a minimum fixed percentage of gross domestic product is allocated to the judiciary;

(f) Pay special attention to ensuring the security of judges, in particular the adoption of preventive security measures for increased protection of judges handling cases of large-scale corruption, organized crime, terrorism, crimes against humanity, or any other cases exposing them to higher risk;

(g) Support transitional justice mechanisms and the revision of the decree establishing the National Human Rights Commission and provide guarantees regarding the right to reparation and the non-repetition of violations.

93. The Independent Expert recommends that the armed groups should:

(a) Respect the ceasefire and the Agreement on Peace and Reconciliation;

(b) Facilitate the release and reintegration of children who are still within their ranks.

94. **The Independent Expert recommends that the international community should:**

Provide financial support and fulfil the pledges made at the international conference organized in Paris in October 2015 and provide technical assistance for the Government's efforts to:

(a) Revive the economy of the whole country;

(b) Reform the security sector by providing for the reintegration of members of armed groups;

(c) Strengthen the capacity of the Malian judicial system;

(d) Establish lasting partnerships with key actors in the fight against drug trafficking.